

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Pending before the Court is Plaintiffs' Motion for a Temporary Restraining Order (ECF No. 3). For the reasons that follow, their Motion will be denied.

Temporary restraining orders are governed by the same standards applicable to preliminary injunctions. *See Cal. Independ. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). A TRO may therefore be issued if a plaintiff establishes: (1) that he is likely to succeed on the merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively, “serious questions going to the merits” and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

Granting preliminary injunctive relief like a temporary restraining order or a preliminary injunction is “an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.” *Mazurek v.*

1 *Armstrong*, 520 U.S. 968, 973 (1997) (quoting 11 C. Wright, A. Miller, & M. Kane, *Federal*
2 *Practice and Procedure* § 2948 (2d ed. 1995)). Here, Plaintiffs have failed to carry that
3 heavy burden.

4 Plaintiffs ask that the Trustee's Sale concerning their home be enjoined because “[t]he
5 defendant's [sic] are not the holder in due course and do not have standing to foreclose on the
6 above referenced property.” (Mot. for a TRO 2:3, ECF No. 3.) However, they provide no
7 affidavits in support of this conclusory proposition, nor do they plead any additional facts to
8 support it. Such a conclusory statement cannot provide the basis for a temporary restraining
9 order, particularly in Nevada, where one does not necessarily need to be the holder in due
10 course in order to conduct a Trustee's Sale. *See Garand v. J.P. Morgan Chase Bank, N.A.*,
11 No. 3:10-cv-00212-LRH-VPC, 2011 WL 2600459, at *3 (D. Nev. June 29, 2011) (“[U]nder
12 Nevada law there is no holder in due course requirement for a trustee to initiate a nonjudicial
13 foreclosure.”). A temporary restraining order can only be entered upon a “clear showing” that
14 Plaintiffs are likely to succeed on the merits or that there is a serious question going to the
15 merits, and an unsupported allegation such as Plaintiffs' does not rise to the level of making a
16 “clear showing.”

17 Accordingly, this Motion will be denied.

18 **CONCLUSION**

19 **IT IS HEREBY ORDERED** that Plaintiff's Motion for a Temporary Restraining
20 Order (ECF No. 3) is **DENIED**.

21 DATED this 25th day of July, 2011.

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Gloria M. Navarro
United States District Judge